

2025 CRIM 281

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK----- x
UNITED STATES OF AMERICA----- :
- v. -JUSTIN HEATH SMITH,
a/k/a "Austin Wolf,"----- : CONSENT PRELIMINARY ORDER
OF FORFEITURE AS TO
SPECIFIC PROPERTY

----- : 25 Cr. ____ (PAE)

Defendant. ----- :
----- x

WHEREAS, on or about June 20, 2025, JUSTIN HEATH SMITH (the "Defendant"), was charged in a one-count Information, 25 Cr. ____ (PAE) (the "Information"), with enticement of a minor, in violation of Title 18, United States Code, Sections 2422(b) and 2 (Count One);

WHEREAS, the Information included a forfeiture allegation as to Count One, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Section 2428, of any and all property, real and personal, constituting or derived from proceeds obtained, directly or indirectly, as a result of the offense charged in Count One of the Information, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of the offense charged in Count One of the Information and the following specific property: One Silver iPhone with serial number 357414192344317;

- b. One WD MyCloud EX2 Ultra with serial number WUBM31061262;
- c. One 16 GB MicroSD card with serial number 01160C21;
- d. One 16 GB MicroSD card;
- e. One 32 GB MicroSD card with serial number 8044XV91283J;
- f. One 32 GB MicroSD card with serial number 6067XV5075L0;
- g. One 64 GB MicroSD card with serial number 20121413;

- h. One 64 GB MicroSD card with serial number 8053ZV91E2ZC;
- i. One 1 TB SD Card with serial number C1921052250G;
- j. One Samsung SIM Card with serial number DPHH1E5GW844;
- k. One WD hard drive with serial number WXE108283138;
- l. One WD MyPassportUltra with serial number WX11D89E28KV;
- m. One 32 GB MicroSD Card with serial number 8075XV70234G;
- n. One 256 GB MicroSD Card with serial number 84250YDTN4MM;
- o. One WD Elements with serial number WX41D67HYEV1;
- p. One MicroSD Card with serial number 03070XLTHOCX;
- q. One MicroSD Card with serial number 0367DXNPT09J;
- r. One MicroSD Card with serial number 2451DXHSK06S;
- s. One WD EasyStore with serial number 2GGARY9U;
- t. One WD MyBookDuo with serial number WUBS20160554;
- u. One WD MyBookDuo with serial number WUBS20362531;
- v. One Mac Pro with serial number F5KPN06MF9VN;
- w. One Mac Mini with serial number C07C707QJYWO;
- x. One Mac Mini with serial number C07WCOUXG1J2; and
- y. One MacBook Pro with serial number CI7J645TDTY3;

(a. through y, collectively, the “Electronic Devices”);

WHEREAS, on or about June 20, 2025, the Defendant pled guilty to Count One of the Information, pursuant to a plea agreement with the Government, wherein the Defendant admitted the forfeiture allegation with respect to Count One and agreed to forfeit to the United States, pursuant to Title 18, United States Code, Section 2428, all right, title and interest of the

Defendant in the Electronic Devices seized on or about April 21, 2024 from the Defendant's residence (the "Specific Property");

WHEREAS, the Defendant consents to the forfeiture of all his right, title and interest in the Specific Property, which constitutes property used or intended to be used to facilitate the offense charged in Count One of the Information, though the defendant reserves the right to seek return of digital contents of the Specific Property, except for any property that contains child sexual abuse materials, the determination of which will be made by the Government; and

WHEREAS, pursuant to Title 21, United States Code, Section 853(g), and Rules 32.2(b)(3), and 32.2(b)(6) of the Federal Rules of Criminal Procedure, the Government is now entitled, pending any assertion of third-party claims, to reduce the Specific Property to its possession and to notify any and all persons who reasonably appear to be a potential claimant of their interest herein;

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Jay Clayton, United States Attorney, Assistant United States Attorney Getzel Berger, of counsel, and the Defendant and his counsel, Michael Baldassare, Esq. and Thomas H. Andrykovitz, Esq., that:

1. As a result of the offense charged in Count One of the Information, to which the Defendant pled guilty, all of the Defendant's right, title and interest in the Specific Property is hereby forfeited to the United States for disposition in accordance with the law, subject to the provisions of Title 21, United States Code, Section 853.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture as to Specific Property is final as to the Defendant

JUSTIN HEATH SMITH, and shall be deemed part of the sentence of the Defendant, and shall be included in the judgment of conviction therewith.

3. Upon entry of this Consent Preliminary Order of Forfeiture as to Specific Property, the United States (or its designee) is hereby authorized to take possession of the Specific Property and to hold such property in its secure custody and control.

4. Pursuant to Title 21, United States Code, Section 853(n)(1), Rule 32.2(b)(6) of the Federal Rules of Criminal Procedure, and Rules G(4)(a)(iv)(C) and G(5)(a)(ii) of the Supplemental Rules for Certain Admiralty and Maritime Claims and Asset Forfeiture Actions, the United States is permitted to publish forfeiture notices on the government internet site, www.forfeiture.gov. This site incorporates the forfeiture notices that have been traditionally published in newspapers. The United States forthwith shall publish the internet ad for at least thirty (30) consecutive days. Any person, other than the Defendant, claiming interest in the Specific Property must file a Petition within sixty (60) days from the first day of publication of the Notice on this official government internet web site, or no later than thirty-five (35) days from the mailing of actual notice, whichever is earlier.

5. The published notice of forfeiture shall state that the petition (i) shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the Specific Property, (ii) shall be signed by the petitioner under penalty of perjury, and (iii) shall set forth the nature and extent of the petitioner's right, title or interest in the Specific Property, the time and circumstances of the petitioner's acquisition of the right, title and interest in the Specific Property, any additional facts supporting the petitioner's claim, and the relief sought, pursuant to Title 21, United States Code, Section 853(n).

6. Pursuant to 32.2 (b)(6)(A) of the Federal Rules of Criminal Procedure, the Government shall send notice to any person who reasonably appears to be a potential claimant with standing to contest the forfeiture in the ancillary proceeding.

7. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture with respect to the Specific Property pursuant to Title 21, United States Code, Section 853(n), in which all interests will be addressed.

8. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

9. The Court shall retain jurisdiction to enforce this Consent Preliminary Order of Forfeiture as to Specific Property, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

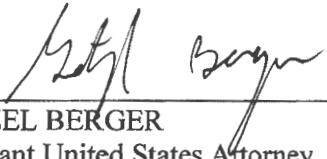
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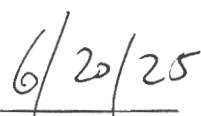
10. The signature page of this Consent Preliminary Order of Forfeiture as to Specific Property may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

AGREED AND CONSENTED TO:

JAY CLAYTON
United States Attorney for the
Southern District of New York

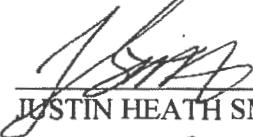
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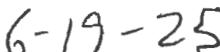

GETZEL BERGER
Assistant United States Attorney
26 Federal Plaza
New York, NY 10278
(212) 637-1061


DATE

JUSTIN HEATH SMITH

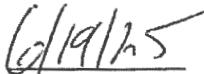
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JUSTIN HEATH SMITH

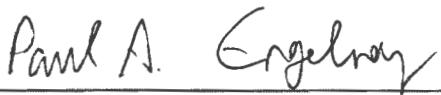

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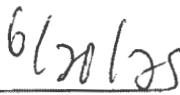
By:


MICHAEL BALDASSARE, ESQ.
THOMAS H. ANDRYKOVITZ, ESQ.
Attorneys for Defendant


DATE

SO ORDERED:


HONORABLE PAUL A. ENGELMAYER
UNITED STATES DISTRICT JUDGE


DATE